



# EARTHJUSTICE

LEGAL DEFENSE FUND

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May 22, 2000

File: 812

U.S. Nuclear Regulatory Commission  
Attn: Russell A. Powell, FOIA/Privacy Act Officer  
FOIA/LPDR Branch  
Mail Stop T-6 D8  
Washington, DC 20555-001

## FOIA/PA REQUEST

Case No: 2000-0257  
Date Rec'd: 5-26-00  
Action Off: Pugh  
Related Case: J

Dear Mr. Powell:

Please consider this a request for documents in accordance with the provisions of 5 U.S.C. § 552, *et seq.*, commonly known as the Freedom of Information Act. Earthjustice Legal Defense Fund submits this request on behalf of our clients the Grand Canyon Trust, Sierra Club, Colorado Plateau River Guides, and Grand County, Utah (collectively "The Trust").

I would appreciate it if you could provide all documents, correspondence and other materials, including but not limited to written, electronic and verbal communications, phone logs, handwritten notes, and drafts etc. located in your records regarding:

- The creation of the Moab Reclamation Trust,
- Assets of the Atlas Corporation,
- Any and all estimates of the costs associated with cleanup at the site, including but not limited to, the cost of groundwater cleanup, the cost of dewatering, the cost of studies associated with developing a groundwater cleanup plan, the cost of recontouring the site, the cost of consolidating waste materials on the tailings pile, the cost of placing a radon barrier on the pile, the cost of meeting water quality standards in the Colorado River, the cost associated with having PriceWaterhouse Coopers managing the site as Trustee, and any other cost estimates associated with implementation of the license amendment,
- The implementation of the license amendment, including but not limited to, any studies that have been conducted, planned or proposed, any contracts for services, any cleanup plans or proposals, any activity at the site related to cleanup,
- Any correspondence, notes of telephone calls or meetings, or other documents related to communications between the NRC and the Trust,
- Reinitiation of consultation under the Endangered Species Act, and
- Proposed license amendments since the issuance of the May 28, 1999 license amendment.

Earthjustice Legal Defense Fund (formerly Sierra Club Legal Defense Fund) is a non-profit public interest environmental law firm committed to the enforcement of our nation's environmental laws. Neither Earthjustice nor its clients would derive any income or commercial benefit from the use of any of the requested materials. These materials will be used to increase the public understanding of government activities related to finalizing and funding a reclamation plan for the Atlas Mill Tailings pile given the limited assets remaining from the Atlas Corporation's bankruptcy proceedings. (Please see Attachment A for a complete description of why these groups meet the criteria for a fee waiver under NCR's regulations.) I therefore request a waiver of any fees associated with this request.

### LAW FIRM FOR THE ENVIRONMENT

1631 GLENARM PLACE, SUITE 300, DENVER, CO 80202-4303

T: 303 623-9466 F: 303 623-8083 E: [eajusco@earthjustice.org](mailto:eajusco@earthjustice.org) W: [www.earthjustice.org](http://www.earthjustice.org)

Because of the requesters' involvement in these issues and previous FOIA requests, some of the documents requested may already be in the requesters' possession. We stand ready to cooperate with you to avoid unnecessary duplication of documents that we may already possess.

Pursuant to 5 U.S.C. § 552, I would appreciate a response within twenty working days of your receipt of this request. In the event that you have any questions concerning the type of materials I am interested in receiving, please contact me as soon as possible at (303) 623-9466. I appreciate the time and effort which goes into processing this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Boggiatto".

Kimberly Boggiatto  
Rocky Mountain Office

## **ATTACHMENT A**

Listed below are the eight criteria specified in NRC regulations for a fee waiver along with an explanation of how our clients meet each criterion.

**1) Describe the purpose for which the requester intends to use the requested information.**

Our request for documents is part of an effort to ensure that adequate funding is available for a cleanup at the Atlas site and to hold the government publicly accountable to address the funding shortfall as soon as possible and ensure that a complete and proper cleanup occurs in accordance with environmental laws.

**2) Explain the extent to which the requester will extract and analyze the substantive content of the agency record.**

Earthjustice Legal Defense Fund is a nonprofit law firm dedicated to protecting our natural resources and the environment. Our attorneys and research associate are experts at sifting through voluminous agency records and extracting important information and analyzing it in a highly useable and understandable format. Once Earthjustice receives the information, our staff will carefully study the entire record and incorporate useful information into written reports, letters, emails, and articles that we will disseminate to our clients and the public. Our clients have the capacity to widely disseminate the information and analysis. In particular, we intend to extract information that will enhance the public's understanding of the financial issues surrounding groundwater cleanup and complete an adequate reclamation of the entire Atlas site..

**3) Describe the nature of the specific activity or research in which the agency records will be used and the specific qualifications the requester possesses to utilize information for the intended use in such a way that it will contribute to public understanding.**

The requestors represent an extensive network of people who reside near the Atlas tailings pile and/or have a keen interest in a proper cleanup of the site that assures protection for the Colorado River. We intend to use the information derived from this request to improve our understanding and the public's understanding of the financial and other issues critical to a cleanup of the Atlas site. We plan to work with government officials and citizens to ensure that a fully funded cleanup occurs as soon as possible.

Our lawyers and clients have participated in public meetings, education and outreach, and discussions related to the Atlas site. We and our clients represent the interests of hundreds of people who are concerned about the Atlas site, it is imperative that we have access to the most up-to-date, thorough, and accurate information.

Earthjustice Legal Defense Fund is uniquely qualified to collect, analyze, and disseminate this information. Earthjustice has over 28 years of experience in environmental litigation and advocacy. Our attorneys and research associate have extensive knowledge of environmental

laws and policies as well as experience in disseminating information in an educational and informative format.

**4) Describe the likely impact on the public's understanding of the subject as compared to the level of understanding of the subject existing prior to disclosure.**

The Atlas mill tailings site near Moab, Utah, is a highly visible and controversial site. However, the public has little knowledge about how the NRC and the new reclamation trustee, who will oversee cleanup at the site, plan to spend the little remaining available funds and plan to ultimately dispose of the site in light of the Atlas bankruptcy. If the information requested is obtained, it will greatly enhance the public's overall understanding of the cleanup of the site and how the NRC plans to address the financial and other issues raised by the Atlas bankruptcy.

**5) Describe the size and nature of the public to whose understanding a contribution will be made.**

Earthjustice and our clients represent an extensive network of people, many of whom live, work, or recreate near the Atlas site, who are concerned about environmental issues. We are constantly in contact with a large sector of the public through newsletters, websites, public meetings, phone calls, grass roots "knocking-on-doors," and other means. The size of the public who will eventually receive this information is very large, and many of them live in the Moab area and are directly affected by the pollution flowing from the pile.

**6) Describe the intended means of dissemination to the general public.**

In conjunction with our clients, we will disseminate the information from this request through newsletters and publications. All the groups involved have either national or regional syndication. This includes Earthjustice's *In Brief*, and Sierra Club's *Sierra*. Information from this request also will be distributed through working with the national media. Articles have appeared on the mill tailings pile in newspapers such as *USA Today*, *Greenwire*, and *High Country News*. Many reporters call us for information about the Atlas site and ask our attorneys about the cleanup, and we will continue to pursue similar national coverage. We will also disseminate the information to the public through action alerts, public meetings and hearings, conferences, discussion, phone calls, person-to-person contact, and internet postings. Some of our clients and Earthjustice maintain active internet sites where this information will be made available to the public. Thus, the information will be disseminated through a large number and variety of media outlets to the public generally and to a targeted audience of persons who live near the Atlas site and have a significant interest in the cleanup of the mill tailings and in eliminating the high levels of pollution currently occurring in the groundwater and the Colorado River.

**7) Indicate if public access to information will be provided free of charge or provided for an access fee or publication fee.**

All information will be made available free of charge.

**8) Describe any commercial or private interest the requester or any other party has in the agency records sought.**

Earthjustice Legal Defense Fund is a nonprofit, public interest, environmental law firm committed to the enforcement of our nation's environmental laws. Neither Earthjustice nor its clients will derive any income or commercial benefit from use of any of the documents.